

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 509 - HB 570**

February 22, 2011

**SUMMARY OF BILL:** Authorizes courts to assess all court costs, filing fees, litigation taxes, and attorney fees against a petitioner seeking an order of protection if the court does not issue or extend an order of protection and conducts a hearing separate from the hearing on the petition at which it is determined that the petitioner is not a victim of domestic abuse, stalking, or sexual assault, the refusal to issue or extend an order was based on such fact, and the petition was filed frivolously.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue - \$2,300/General Fund  
\$4,800/Dedicated Funds**

**Increase Local Revenue - \$46,300**

**Assumptions:**

- Authorizing the court to conduct a separate hearing in order to determine whether costs can be assessed against the petitioner if an order of protection is not issued or extended will not have a significant impact on the caseloads or adjudicatory processes of the state and local court systems.
- The court clerks will be able to assess court costs, filing fees, litigation taxes and attorney fees against the petitioner for orders of protection filed by non-victims that are dismissed or withdrawn.
- According to the Tennessee Court Clerks Association, under current law courts are not assessing costs against petitioners for orders of protections that are dismissed or withdrawn.
- Based on the data provided by the Tennessee Court Clerks Association, there are approximately 25,310 orders of protection dismissed or withdrawn each year. It is estimated that 50 percent, or 12,655, of these dismissed or withdrawn orders will be by petitioners who are found not to be a victim.
- Of the 12,655 dismissed or withdrawn orders, it is estimated that five percent, or 633 will be found to have been filed frivolously.
- Total costs associated with orders of protection are estimated to be \$179.50 per order filed. Of this amount, \$23.75 is the state privilege tax on litigation, leaving \$155.75 in county costs and fees.

- According to the Fiscal Review Staff Report on Uncollected Criminal Case Fines, Costs, and Litigation Taxes (September, 2008), 47 percent of costs are recoverable. The remaining 53 percent is assessed against petitioners who are indigent or otherwise unable to pay.
- Local revenue will increase by approximately \$46,337 ( $633 \times \$155.75 \times 47\%$ ).
- State revenue is estimated to increase approximately \$7,066 ( $633 \times \$23.75 \times 47\%$ ).
- The state privilege tax revenue (\$7,066) is earmarked to the general fund and other dedicated funds as follows:
  - \$2,272 (32.1502%) to the General Fund
  - \$2 (.032%) to the Tennessee Corrections Institute
  - \$235 (75% of 4.443%) to the Department of Education
  - \$78 (25% of 4.443%) to the Department of Safety
  - \$46 (.6553%) to the State Court Clerks Conference
  - \$59 (.8406%) to the Victims of Crime Assistance Fund
  - \$1,696 (24.002%) to the Criminal Injuries Compensation Fund
  - \$97 (1.3755%) to the Victims of Drunk Drivers Compensation
  - \$266 (3.7653%) to the Criminal Indigent Defense Fund
  - \$39 (.5529%) to the Administrative Office of the Courts
  - \$1,363 (19.2902%) to the Public Defender Program
  - \$528 (7.4701%) to the Civil Legal Representation of Indigents
  - \$163 (2.3056%) to the General Fund for Grants to Local Government
  - \$24 (.3426%) to the Sex Offender Treatment Fund
  - \$196 (2.7747%) for Driver Education in Public Schools.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/bos